

Ronald Lovitt, Bar No. 040921  
 J. Thomas Hannan, Bar No. 039140  
 Henry I. Bornstein, Bar No. 75885  
 LOVITT & HANNAN, INC.  
 900 Front Street, Suite 300  
 San Francisco, California 94111  
 Telephone: (415) 362-8769  
 Facsimile: (415) 362-7528  
*rl@lh-sf.com, jth@lh-sf.com, hib@lh-sf.com*

Attorneys for Defendants  
 K-M Industries Holding Co. Inc.;  
 K-M Industries Holding Co.Inc. ESOP Plan Committee;  
 and CIG ESOP Plan Committee

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

THOMAS FERNANDEZ and LORA  
 SMITH, individually and on behalf of a  
 class of all others similarly situated,

Plaintiffs,

v.

K-M INDUSTRIES HOLDING CO., INC.;  
 K-M INDUSTRIES HOLDING CO. INC.  
 ESOP PLAN COMMITTEE; WILLIAM E.  
 AND DESIREE B. MOORE REVOCABLE  
 TRUST; ADMINISTRATOR OF THE  
 ESTATE OF WILLIAM E. MOORE,  
 DECEASED; CIG ESOP PLAN  
 COMMITTEE; and NORTH STAR TRUST  
 COMPANY,

Defendants.

) Case No. C06-07339 MJJ  
 )  
 ) STIPULATION AND [PROPOSED]  
 ) ORDER EXTENDING DEADLINE  
 ) FOR ANSWER AND OTHER  
 ) DATES PREVIOUSLY SET BY  
 ) COURT ORDER DATED  
 ) NOVEMBER 29, 2006

WHEREAS, by prior Order dated November 29, 2006, this Court  
 established the following schedule for Rule 26 disclosures, consideration of alternative

LOVITT &amp; HANNAN, INC.

ATTORNEYS AT LAW

900 FRONT STREET, SUITE 300  
SAN FRANCISCO 94111OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

(415) 362-8769

dispute resolution procedures and the initial case management conference:

- a. February 13, 2007: initial meeting of counsel to confer regarding initial disclosures, early settlement, ADR process selection and discovery plan;
- b. February 27, 2007: Last day to complete initial disclosures, file Case Management Statement and file Rule 26(f) report;
- c. March 6, 2007: initial Case Management Conference to be held at 2:00 p.m. in Courtroom 11, 19th floor.

WHEREAS, after service of the complaint on Defendants K-M Industries Holding Co., Inc.; K-M Industries Holding Co., Inc. ESOP Plan Committee; CIG ESOP Plan Committee; and North Star Trust Company in December 2006, a stipulation was reached between Plaintiffs and those Defendants that the answer date for those Defendants would be extended to and including January 25, 2007.

WHEREAS, additional defendants, the William E. and Desiree B. Moore Revocable Trust and the Trustees of the William E. and Desiree B. Moore Revocable Trust, were served through their counsel on January 10, 2007, and their answer date is currently January 30, 2007.

WHEREAS, Defendants believe, as set forth in the attached Exhibit A, the Declaration of Ronald Lovitt, that it would be beneficial to the orderly and efficient progress of the case if all defendants had a brief extension of time to prepare answers, evaluate the merits of early ADR and prepare Rule 26 disclosures;

WHEREAS, the Defendants do not seek this extension for delay but rather so that the value of the initial pretrial procedures required of the parties and ordered by the Court will be maximized;

WHEREAS, Plaintiffs and Defendants have agreed to a brief stipulated extension of time for the above dates previously set by the Court;

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ATTORNEYS AT LAW

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OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

Accordingly, IT IS HEREBY AGREED AND STIPULATED by the parties through their counsel of record that the deadlines set by Court order dated November 29, 2006 shall be extended as follows:

- a. All defendants will answer the Complaint on or before February 15, 2007;
- b. February 22, 2007: all parties exchange Rule 26(a)(1) initial disclosures and all of the documents referenced in those disclosures;
- c. March 6, 2007: last day to meet and confer regarding ADR process selection, discovery plan and joint case management conference statement;
- d. March 13, 2007: last day to file Joint Case Management Statement pursuant to Rule 26(f);
- e. March 20, 2007: subject to the convenience of the Court, the initial Case Management Conference will be held at 2:00 p.m. in Courtroom 11, 19th floor.

DATED: January 23, 2007

LOVITT &amp; HANNAN, INC.

By: 

Ronald Lovitt

Attorneys for Defendants K-M Industries Holding Co., Inc.; K-M Industries Holding Co., Inc. ESOP Plan Committee; and CIG ESOP Plan Committee

OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

LOVITT & HANNAN, INC.  
ATTORNEYS AT LAW  
900 FRONT STREET, SUITE 300  
SAN FRANCISCO 94111  
(415) 362-8789

1 DATED: January 23, 2007

HENNIGAN, BENNETT & DORMAN LLP

2  
3 By: DoHoang T. Duong  
4 DoHoang T. Duong  
5 Attorneys for Defendant William E. And Desiree  
6 B. Moore Revocable Trust

7 DATED: January \_\_, 2007

MORGAN LEWIS

8  
9 By: \_\_\_\_\_  
10 Lisa Serebin  
11 Attorneys for Defendant North Star Trust  
12 Company

13 DATED: January \_\_, 2007

LEWIS, FEINBERG, LEE, RENAKER &  
JACKSON, P.C.

14  
15 By: \_\_\_\_\_  
16 Todd Jackson  
17 Attorneys for Plaintiffs Thomas Fernandez and  
18 Lora Smith

19  
20 Good cause appearing, it is APPROVED: and IT IS SO ORDERED.

21  
22 DATED: \_\_\_\_\_

23 \_\_\_\_\_  
24 Honorable Martin J. Jenkins  
25 UNITED STATES DISTRICT JUDGE

26  
27  
28 Stipulation and [Proposed] Order

-4-

Case No. C06-07339 MJJ

LOVITT & HANNAN, INC.  
ATTORNEYS AT LAW  
900 FRONT STREET, SUITE 300  
SAN FRANCISCO 94111  
(415) 362-8769

OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

1 DATED: January \_\_\_\_, 2007

HENNIGAN, BENNETT & DORMAN LLP

2  
3 By: \_\_\_\_\_  
4 DoHoang T. Duong  
5 Attorneys for Defendant William E. And Desiree  
6 B. Moore Revocable Trust

7 DATED: January 23, 2007

MORGAN LEWIS & BOCKRUS LLP

8  
9 By: \_\_\_\_\_  
10 Lisa Serebin  
11 Attorneys for Defendant North Star Trust  
12 Company

13 DATED: January \_\_\_\_, 2007

LEWIS, FEINBERG, LEE, RENAKER &  
JACKSON, P.C.

14  
15 By: \_\_\_\_\_  
16 Todd Jackson  
17 Attorneys for Plaintiffs Thomas Fernandez and  
18 Lora Smith

19  
20 Good cause appearing, it is APPROVED: and IT IS SO ORDERED.

21  
22 DATED: \_\_\_\_\_

23 \_\_\_\_\_  
24 Honorable Martin J. Jenkins  
25 UNITED STATES DISTRICT JUDGE

LOVITT & HANNAN, INC.

ATTORNEYS AT LAW

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OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

1 DATED: January \_\_, 2007

HENNIGAN, BENNETT & DORMAN LLP

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3  
4 By: \_\_\_\_\_

5 DoHoang T. Duong  
6 Attorneys for Defendant William E. And Desiree  
7 B. Moore Revocable Trust

8 DATED: January \_\_, 2007

MORGAN LEWIS

9 By: \_\_\_\_\_

10 Lisa Serebin  
11 Attorneys for Defendant North Star Trust  
12 Company

13 DATED: January 23, 2007

14 LEWIS, FEINBERG, LEE, RENAKER &  
15 JACKSON, P.C.

16 By: Todd Jackson

17 Todd Jackson  
18 Attorneys for Plaintiffs Thomas Fernandez and  
19 Lora Smith

20 Good cause appearing, it is APPROVED: and IT IS SO ORDERED.  
21

22 DATED: \_\_\_\_\_

23 \_\_\_\_\_  
24 Honorable Martin J. Jenkins  
25 UNITED STATES DISTRICT JUDGE  
26  
27  
28

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ATTORNEYS AT LAW

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OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

DATED: January \_\_, 2007

HENNIGAN, BENNETT & DORMAN LLP

By: \_\_\_\_\_

DoHoang T. Duong  
Attorneys for Defendant William E. And Desiree  
B. Moore Revocable Trust

DATED: January \_\_, 2007

MORGAN LEWIS

By: \_\_\_\_\_

Lisa Serebin  
Attorneys for Defendant North Star Trust  
Company

DATED: January \_\_, 2007

LEWIS, FEINBERG, LEE, RENAKER &  
JACKSON, P.C.

By: \_\_\_\_\_

Todd Jackson  
Attorneys for Plaintiffs Thomas Fernandez and  
Lora Smith

Good cause appearing, it is APPROVED: and IT IS SO ORDERED.

DATED: \_\_\_\_\_

Honorable Martin J. Jenkins  
UNITED STATES DISTRICT JUDGE

LOVITT & HANNAN, INC.

ATTORNEYS AT LAW

900 FRONT STREET, SUITE 300

SAN FRANCISCO 94111

(415) 362-8769

OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

**PROOF OF SERVICE**

I, Laura J. Davies, the undersigned, hereby certify and declare:

1. I am over the age of 18 years and am not a party to the within cause.  
2. I am employed in the office of a member of the bar of this Court, at whose direction this service was made.

3. My business address is 900 Front Street, Suite 300, San Francisco, California 94111.

4. On January 23, 2007, I served a true copy of the attached document(s) titled exactly:

**STIPULATION AND [PROPOSED] ORDER EXTENDING  
DEADLINE FOR ANSWER AND OTHER DATES PREVIOUSLY  
SET BY COURT ORDER DATED NOVEMBER 29, 2006,**

on the interested parties in this action as follows:

  X   **BY MAIL:** I am readily familiar with my employer's mail collection and processing practices, know that said mail is collected and deposited with the United States Postal Service on the same day it is deposited in the interoffice mail, and know that postage thereon is fully prepaid. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope(s) at Lovitt & Hannan, Inc., 900 Front Street, Suite 300, San Francisco, California 94111, addressed, sealed and charges prepaid as follows:

Todd Jackson  
LEWIS FEINBERG LEE RENAKER &  
JACKSON  
1330 Broadway, Suite 1800  
Oakland, CA 94612

*Attorneys for Plaintiffs*

Peter Rukin  
RUKIN HYLAND & DORIA, LLP  
100 Pine Street, Suite 725  
San Francisco, CA 94111

*Attorneys for Plaintiffs*



LOVITT & HANNAN, INC.

ATTORNEYS AT LAW

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(415) 362-8769

OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

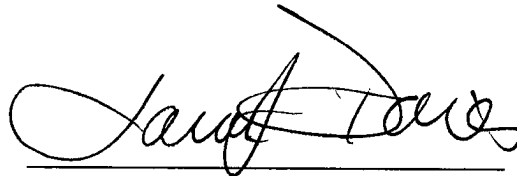
1 Lisa S. Serebin  
2 MORGAN, LEWIS & BOCKIUS LLP  
3 One Market Street, Spear Street Tower  
4 San Francisco, CA 94105

*Attorneys for Defendant*  
**NORTH STAR TRUST COMPANY**

4 Robert L. Palmer  
5 DoHoang T. Duong  
6 HENNIGAN, BENNETT & DORMAN LLP  
7 865 South Figueroa Street, Suite 2900  
8 Los Angeles, California 90017

*Attorneys for Defendant*  
**WILLIAM E. AND DESIREE B.**  
**MOORE REVOCABLE TRUST**

6. I declare under penalty of perjury that the foregoing is true and  
correct and that this declaration was executed on January 23, 2007, at San  
Francisco, California.



Laura J. Davies

**EXHIBIT A**

**LOVITT & HANNAN, INC.**  
 ATTORNEYS AT LAW  
 900 FRONT STREET, SUITE 300  
 SAN FRANCISCO 94111  
 (415) 362-8769

OF COUNSEL TO:  
 BARTKO, ZANKEL, TARRANT & MILLER P.C.

Ronald Lovitt, Bar No. 040921  
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Attorneys for Defendants  
 K-M Industries Holding Co. Inc.;  
 K-M Industries Holding Co.Inc. ESOP Plan Committee;  
 and CIG ESOP Plan Committee

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

|   |   |                        |
|---|---|------------------------|
| THOMAS FERNANDEZ and LORA               | ) | Case No. C06-07339 MJJ |
| SMITH, individually and on behalf of a  | ) |                        |
| class of all others similarly situated, | ) | DECLARATION OF RONALD  |
|   | ) | LOVITT                 |
| Plaintiffs,                             | ) |                        |
| v.                                      | ) |                        |
|   | ) |                        |
| K-M INDUSTRIES HOLDING CO., INC.;       | ) |                        |
| K-M INDUSTRIES HOLDING CO. INC.         | ) |                        |
| ESOP PLAN COMMITTEE; WILLIAM E.         | ) |                        |
| AND DESIREE B. MOORE REVOCABLE          | ) |                        |
| TRUST; ADMINISTRATOR OF THE             | ) |                        |
| ESTATE OF WILLIAM E. MOORE,             | ) |                        |
| DECEASED; CIG ESOP PLAN                 | ) |                        |
| COMMITTEE; and NORTH STAR TRUST         | ) |                        |
| COMPANY,                                | ) |                        |
|   | ) |                        |
| Defendants.                             | ) |                        |

I. Ronald Lovitt, do hereby certify and state:

1. I am an attorney with the San Francisco law firm of Lovitt &  
 Hannan, Inc., admitted to practice in California and before this Court.

LOVITT & HANNAN, INC.

ATTORNEYS AT LAW

900 FRONT STREET, SUITE 300  
SAN FRANCISCO 94111

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OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

2. Lovitt & Hannan has recently been retained to represent certain of the defendants in this case: K-M Industries Holding Co. Inc.; K-M Industries Holding Co. Inc. ESOP Plan Committee; and CIG ESOP Plan Committee.

3. I make this declaration of my own knowledge in support of the stipulation of all parties – Plaintiffs and Defendants – in the action for a brief extension of certain pretrial deadlines previously established pursuant to this Court’s local rules.

4. After service of the complaint on Defendants K-M Industries Holding Co., Inc.; K-M Industries Holding Co., Inc. ESOP Plan Committee; CIG ESOP Plan Committee; and North Star Trust Company in December 2006, a stipulation was reached between plaintiffs and those defendants, including those now represented by Lovitt & Hannan, Inc., that the answer date would be extended to and including January 25, 2007.

5. Additional defendants, the William E. and Desiree B. Moore Revocable Trust and the Trustees of the William E. and Desiree B. Moore Revocable Trust, were served through their counsel on January 10, 2007, and their answer date is currently January 30, 2007.

6. By prior order dated November 29, 2006, this Court established the following schedule for Rule 26 disclosures, consideration of alternative dispute resolution procedures and the initial case management conference:

- a. February 13, 2007: initial meeting of counsel to confer regarding initial disclosures, early settlement, ADR process selection and discovery plan;

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- 1 b. February 27, 2007: last day to complete initial disclosures,  
2 file Case Management Statement and file Rule 26(f) report;  
3 c. March 6, 2007: initial Case Management Conference.  
4

5 7. On Friday, January 19, 2007, I spoke with Todd Jackson, one of the  
6 counsel for Plaintiffs, to advise him that Lovitt & Hannan, Inc. had just been  
7 retained to represent certain of the Defendants and to discuss the merits of  
8 coordinating the response dates of all served Defendants and to suggest a brief  
9 extension in the deadlines described in paragraph 6. Based on prior  
10 communications with other defense counsel, I informed Mr. Jackson that all  
11 defendants intend to respond to the Complaint by answer rather than motion.  
12

13 8. Defendants believe it would be beneficial to the orderly and  
14 efficient progress of the case if all defendants had a brief extension of time to  
15 prepare answers, evaluate the merits of early ADR and prepare Rule 26  
16 disclosures. Plaintiffs do not oppose such a brief extension, described just below  
17 in paragraph 9.  
18

19 9. Plaintiffs and Defendants have agreed to a brief stipulated extension  
20 of time for the above dates previously set by the Court, as follows:

- 21 a. All defendants will answer the Complaint on or before  
22 February 15, 2007;  
23 b. February 22, 2007: all parties will exchange Rule 26(f)  
24 initial disclosures and all of the documents referenced in  
25 those disclosures;  
26  
27  
28

LOVITT & HANNAN, INC.

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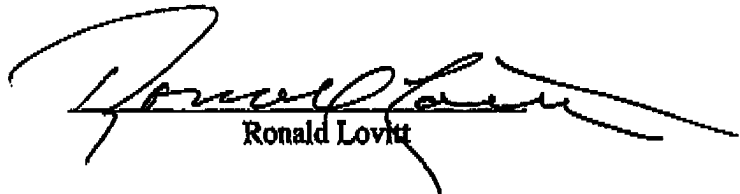
OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

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- c. March 6, 2007: last day to meet and confer regarding ADR process selection, discovery plan and joint case management conference statement;
- d. March 13, 2007: last day to file Joint Case Management Statement;
- e. March 20, 2007: initial Case Management Conference (subject to the Court's convenience).

10. The Defendants do not seek this extension for delay but rather so that the value of the initial pretrial procedures required of the parties and ordered by the Court will be maximized. No party will be prejudiced by these brief extensions.

I declare under penalty of perjury the foregoing is true and correct and this declaration was executed on January 23, 2007 at Mill Valley, California.



Ronald Lovitt

**EXHIBIT A**

LOVITT &amp; HANNAN, INC.

ATTORNEYS AT LAW

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OF COUNSEL TO:  
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those disclosures;

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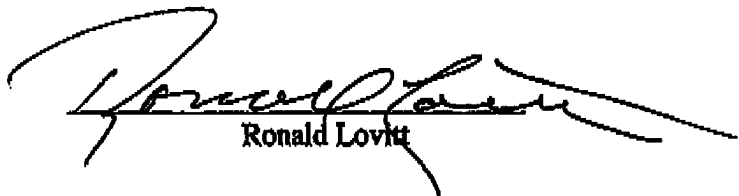
OF COUNSEL TO:  
BARTKO, ZANKEL, TARRANT & MILLER P.C.

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- 1 c. March 6, 2007: last day to meet and confer regarding ADR  
2 process selection, discovery plan and joint case management  
3 conference statement;  
4 d. March 13, 2007: last day to file Joint Case Management  
5 Statement;  
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12 extensions.  
13

14 I declare under penalty of perjury the foregoing is true and correct and this  
15 declaration was executed on January 23, 2007 at Mill Valley, California.  
16

17   
18 Ronald Lovitt  
19  
20  
21  
22  
23  
24  
25  
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27  
28